

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARK LEIDENHEIMER, an) Case No. CV 13-09568 DDP (VBKx)
individual,)
Plaintiff,) **ORDER RE DEFENDANT'S OPPOSITION**
v.) **TO PLAINTIFF'S EX PARTE**
O'REILLY AUTOMOTIVE STORES,) **APPLICATION TO QUASH**
INC., a Missouri)
corporation; CSK AUTO, INC.,)
an Arizona corporation;) [Dkt. No. 87]
OSCAR CORONA, an individual,
Defendants.

The Court is in receipt of Defendant CSK Auto, Inc.'s
Opposition to Plaintiff's Ex Parte Application. (Dkt. No. 87.)
Defendant seeks for the Court to reconsider its Order granting the
Ex Parte Application. (Dkt. No. 86.) The Scheduling Order in this
case has been modified by the Court pursuant to joint stipulations
by the parties several times. As amended, the fact discovery cut-
off was April 27, 2015, and the last day to file motions was June
29, 2015. (Dkt. No. 29.) Expert discovery was modified to end on
July 31, 2015. (Dkt. No. 31.) On June 29, 2015, Defendant filed a
Motion for Summary Judgment. (Dkt. No. 34.) The Court denied the

1 Motion on October 7, 2015. (Dkt. No. 55.) Again pursuant to the
2 parties' stipulation, the Court granted two continuances of the
3 pretrial conference and trial dates, which are now respectively
4 February 1, 2016, and February 16, 2016. (Dkt. Nos. 53, 57.)

5 Then, on December 31, 2015, Defendant filed its first Ex
6 Parte, seeking to reopen fact discovery and for the Court to compel
7 Plaintiff to sign an authorization granting Defendant access to
8 Plaintiff's records with the EDD and SSA. (Dkt. No. 58.)
9 Plaintiff opposed the ex parte, with Plaintiff's opposition filed
10 the next working day of the Court, January 4, 2016. (Dkt. No. 61.)
11 On January 11, 2016, the Court denied Defendant's Ex Parte. (Dkt.
12 No. 63.)

13 Defendant sent trial subpoenas to the EDD and SSA on January
14 12, 2016. (Dkt. No. 78-3.) Plaintiff responded on January 13,
15 2016, telling Defendant that he opposed Defendant's trial subpoenas
16 and intended to file an ex parte motion to quash the subpoenas.
17 (Dkt. No. 87-1 Ex. D.) After a meet and confer, Defendant refused
18 with withdraw the subpoenas, so Plaintiff filed an Ex Parte
19 Application to quash on January 22, 2016. (Dkt. No. 78.) There
20 was no opposition from Defendant.

21 On January 27, 2016, the Court granted Plaintiff's Ex Parte
22 Application to quash because the motion was unopposed and supported
23 by good cause and legal basis. (Dkt. No. 86.) Later that same
24 day, after the Court issued its Order, Defendant filed its
25 Opposition. (Dkt. No. 87.) The Court holds that Defendant's
26 Opposition comes too late. Discovery has been closed for a long
27 time, and the trial date is upcoming on February 16, 2016.
28 Defendant could have sought this information at many different

1 times, and Defendant could and should have opposed Plaintiff's Ex
2 Parte in a timely manner, demonstrating the legal basis for the
3 trial subpoenas. Because Defendant failed to do this, the Court
4 will not reconsider its Order.

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6 IT IS SO ORDERED.

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9 Dated: February 1, 2016

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DEAN D. PREGERSON

United States District Judge